

BEFORE
THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA
DOCKET NO. 2020-63-E—ORDER NO. 2020-__

Petition of Bridgestone Americas Tire)	
Organization, LLC for an Order)	
Compelling Dominion Energy South)	CCL’S PROPOSED ORDER
Carolina, Incorporated to Allow the)	GRANTING BATO’S PETITION
Operation of a 1980 kW AC Solar Array)	
as Authorized by State Law)	

I. INTRODUCTION

This matter comes before the Public Service Commission of South Carolina (“Commission”) on the Petition of Bridgestone Americas Tires Organization, LLC (“BATO”) for an order compelling Dominion Energy South Carolina, Inc. (“DESC”) to allow BATO to operate a 1980 kW solar array (“Solar Array”) at its plant in Graniteville, South Carolina.

In October 2018, BATO completed construction of the Solar Array at its Graniteville facility in conjunction with a plant expansion. Once operational, the Solar Array will allow BATO to reduce its electricity consumption and peak demand, lower its electricity costs by approximately \$20,000 per month, and further its corporate goals of reducing its global CO₂ emissions 35 percent by 2020 and 50 percent by 2050 using renewable energy sources. BATO designed the Solar Array to supplement about 1.5 percent of fossil fuel-based energy needed for the Graniteville plant and eliminate 1,400 metric tons of CO₂ emissions annually.

In the two years since the Solar Array's completion, DESC has not allowed BATO to operate the facility, ultimately giving rise to the dispute in this proceeding. DESC claims that the Array will operate in parallel with its system and is subject to the South Carolina Generator Interconnection Procedures ("SCGIP") and the interconnection queue, in which the Solar Array is currently 375th in line.

On February 14, 2020, BATO filed a petition requesting that the Commission issue an order finding that the SCGIP do not apply to the Solar Array or, in the alternative, waive the requirements of the SCGIP as to the Solar Array, and to compel DESC to permit the operation of the Solar Array. According to BATO's Petition, the Solar Array is directly connected to the Graniteville plant's powerhouse, not DESC equipment, and will not interfere with DESC's equipment or its transmission system. BATO Pet. at 3. BATO will not net meter or sell its energy to DESC, as it intends to consume all of the electricity generated by the Solar Array, and the company installed reverse power flow protection relays to prevent electricity from being inadvertently transmitted from the Solar Array to DESC infrastructure. *Id.* Further, BATO claims that it constructed the Solar Array in accordance with the contract for electric service ("Service Contract") between BATO and DESC approved by the Commission. *Id.* at 3–4. On these facts, BATO argues that the Solar Array is not subject to the SCGIP, promulgated pursuant to S.C. Code Ann. § 58-27-460. *Id.* at 4–5.

On February 21, 2020, DESC filed an answer disputing the BATO Petition on both factual and legal grounds.¹ First, DESC claims that it informed BATO no later than

¹ In response to Commission Directive Order No. 2020-63-E, DESC filed a letter on March 6, 2020 indicating that its February 21 letter constituted an answer to BATO's Petition.

May 11, 2018, that the Solar Array was subject to the SCGIP, months before BATO built the project. DESC Answer to BATO Pet. at 2. According to DESC, the Solar Array “interconnects” to and “operates in parallel” with DESC’s system because an “electric connection” exists between the Solar Array and the utility, and that as such, the Solar Array is subject to the SCGIP.

On March 11, 2020, the Commission issued an order instructing the Clerk’s Office to set this matter for hearing. The South Carolina Coastal Conservation League (“CCL”) filed a petition to intervene, which the Commission granted. The Office of Regulatory Staff (“ORS”) is automatically a party pursuant to S.C. Code Ann. § 58-4-10(B).

The Commission convened a virtual public evidentiary hearing in this matter on July 28 and 29, 2020, with the Honorable Comer H. Randall presiding. Representing the Parties and appearing virtually before the Commission in this Docket were Scott Elliott, Esquire, for BATO; J. Ashley Cooper, Esquire, K. Chad Burgess, Esquire, Matthew W. Gissendanner, Esquire, and Marion William Middleton III, for DESC; Katherine N. Lee, Esquire, and J. Blanding Holman IV, Esquire, for CCL; and Alexander W. Knowles, Esquire, for ORS. BATO presented the direct testimony of Derrick Freeman and the direct and rebuttal testimonies of Edward G. McGavran III, and Courtney Cannon. DESC presented the direct testimonies of John H. Raftery and Joseph L. Hodges, Jr., the direct and surrebuttal testimonies of Pandelis “Lee” N. Xanthakos and Mark C. Furtick, and the surrebuttal testimony of Matthew J. Hammond. BATO, DESC, and CCL filed pre-hearing briefs the week prior to the hearing. CCL and ORS did not file testimony or present witnesses at the hearing.

II. JURISDICTION OF THE COMMISSION

The Commission has jurisdiction over this case pursuant to S.C. Code Ann. § 58-27-1940, which authorizes the Commission to adjudicate, upon petition of an interested party, “any act or thing done or omitted to be done by any electrical utility in violation, or claimed violation, of any law which the [C]ommission has jurisdiction to administer or of any order or rule of the [C]ommission.”

The Commission has authority to supervise and regulate the service and operations of DESC as a public utility in South Carolina. S.C. Code Ann. § 58-3-140. This includes jurisdiction over the Service Contract entered into between DESC and BATO. S.C. Code Ann. § 58-27-820. Further, Act 236, as amended by the Energy Freedom Act, requires that the Commission “promulgate and periodically review standards for interconnection and parallel operation of generating facilities to an electrical utility's distribution and transmission system, where such interconnection is under the jurisdiction of the [C]ommission.” S.C. Code Ann. § 58-27-460(A)(1).

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

The threshold legal issue in this case is whether the BATO Solar Array is subject to the requirements of the SCGIP. In 2014, the S.C. General Assembly enacted Act 236 “to promote the establishment of a reliable, efficient, and diversified portfolio of distributed energy resources” in South Carolina. S.C. Code Ann. § 58-39-110. As part of that legislation, the Commission was directed to promulgate standards for the interconnection of renewable energy facilities and other nonutility-owned generation with a capacity of 2,000 kW AC or less. S.C. Code Ann. § 58-27-460(A)(1). The SCGIP was approved by the Commission in April 2016, following a lengthy collaborative working

group process that involved utilities, conservation organizations, and members of the solar industry. Docket No. 2015-362-E, Order No. 2016-191 (Apr. 6, 2016). CCL, ORS, and DESC were parties to that proceeding.

The central issue in this matter is whether the SCGIP, approved in Order 2016-191, applies to the BATO Solar Array. Order No. 2016-191 provides that “[a]ny parallel non-utility generator requesting to interconnect to a South Carolina utility’s system *and* to either net meter or sell its full output to the interconnecting utility would interconnect under the proposed standard.” Order No. 2016-191 at 6 (emphasis added). Nearly identical language is found on page 9 of the Order, which further specifies that the SCGIP applies to those facilities that “intend to either net meter or sell the generator’s full output to the interconnecting utility.” Order No. 2016-191 at 9.

It is undisputed that the BATO facility was designed and has been constructed to generate electricity for on-site consumption only, and not to export any power onto the grid, either for net metering or sale to DESC. The Commission accordingly finds that, because the Solar Array will not net meter or sell its full output to Dominion or another South Carolina utility, it is not subject to the requirements of the SCGIP approved in Order 2016-191.

DESC argues that Section 1.1.1 of the SCGIP shows that the interconnection procedures apply to all generating facilities that operate in parallel to a utility system, regardless of whether they export power for sale or net-metering. However, Section 1.1.1 merely provides that the SCGIP applies to “the interconnection *and* parallel operation of generating facilities with utility systems in South Carolina.” By specifying “interconnection” and “parallel operation” separately, Section 1.1.1 confirms that those

two terms are distinct under the SCGIP, not synonymous as DESC contends. State v. Sweat, 688 S.E.2d 569, 575 (S.C. 2010) (A statute or regulation “should be so construed that no word, clause, sentence, provision, or part shall be rendered surplusage, or superfluous.”). And since Order No. 2016-191 defines the scope of the term “interconnection” for SCGIP applicability, that meaning controls for Section 1.1.1.

DESC also points to another portion of Section 1.1.1, which provides that the SCGIP apply to “Generating Facilities *that are interconnecting to utility systems in South Carolina* which will not sell their output to an entity other than the Utility to which it is interconnecting.” But this language also requires that a facility “interconnect” within the meaning of the SCGIP for the procedures to apply. This provision provides that the SCGIP excludes facilities subject to FERC jurisdiction—namely, those that will sell their output to a different utility, which would require use of the transmission system—but it does not provide further guidance about what interconnections are *included* within the SCGIP’s scope.

At base, Order No. 2016-191 is the only document to define the scope of the term “interconnection” for SCGIP applicability, and it provides that such an “interconnection” *only* exists where a facility will either net meter or sell its full output to the interconnecting South Carolina utility. The Commission therefore finds that an “interconnection” subject to the SCGIP only exists where a facility will either net meter or sell its full output to the interconnecting utility. *See Chem. Leaman Tank Lines, Inc. v. S.C. Pub. Serv. Comm’n*, 189 S.E.2d 296 (1972) (citing the “well-settled” general principle that “Commission Orders issued under the powers and authority vested in it have the force and effect of law.”).

DESC's additional arguments cannot change this outcome, and appear to be meritless. DESC suggests that if the BATO Solar Array is not subject to the SCGIP, solar projects in the interconnection queue will receive discriminatory treatment. But DESC has already undertaken some review of BATO's Solar Array and, under the contract approved by this Commission, has specified measures for the safe operation of the BATO system. Making BATO now wait in line will do nothing to alleviate the unfortunate congestion that is apparently afflicting DESC's queue, and indeed, would only make it worse. This proceeding is not the proper forum to resolve the issues with DESC's queue. But the Commission shares DESC's desire to shorten queue wait times and speed deployment of renewable power in South Carolina consistent with the General Assembly's intent expressed in Act 236 and the Energy Freedom Act, and its decision today is intended to better serve those goals.

The Commission also takes note that non-exporting facilities like the Solar Array pose a much different operational profile than do much larger generation facilities that intentionally export large quantities of power to the grid. Other states have accordingly adopted procedures for non-exporting generators with expedited, simplified review for such facilities. While the Commission may consider expedited standards for non-exporting facilities like the Solar Array at a later date—generic Docket No. 2019-326-E is currently underway for the express purpose of considering revisions to the SCGIP—the present matter concerns the simple question of whether the current SCGIP approved by Order 2016-191 applies to BATO's facility. As explained above, it does not.

This hardly leaves DESC without a way to ensure that the BATO facility operates safely. The Service Contract between BATO and DESC enables DESC to review and

impose reasonable conditions on the Solar Array to make sure it operates safely and will not damage the DESC system. The Service Contract requires BATO to notify DESC in writing before operating any alternate source of electricity such as the Solar Array, and directs BATO and DESC to agree on “measures or conditions . . . as may be required for reliability of both systems.” Service Contract at 8. DESC witness Mark Furtick testified at the hearing that DESC may conduct all needed studies of the Solar Array under the terms of the Service Contract. DESC must work with BATO to reach agreeable terms under the Service Contract within a reasonable time, and allow the Solar Array to operate once those terms are satisfied. It is not reasonable, however, for DESC to require that the BATO Solar Array wait in the interconnection queue, as that is a legal requirement to which it is not subject.

Based upon the discussion as set forth herein, and the record of the instant proceeding, the Commission makes the following Findings of Fact and Conclusions of Law:

1. The SCGIP, as approved in Order 2016-191, applies only to parallel non-utility generators that request to interconnect to a South Carolina utility’s system *and* that will either net meter or sell their full output to the interconnecting utility.
2. The BATO Solar Array will neither net meter nor sell its full output to a South Carolina utility, and therefore is not subject to the SCGIP.
3. DESC may not require that the BATO Solar Array wait in the interconnection queue before allowing the Solar Array to operate. Under the terms of the Service

Contract, DESC and BATO must work in good faith to reach agreeable terms such that the Solar Array can begin operation within a reasonable period of time.

IT IS THEREFORE ORDERED THAT:

1. The BATO Solar Array is not subject to the SCGIP because it will neither net meter nor sell its full output to a South Carolina utility.
2. DESC must begin conducting all relevant studies and working with BATO in good faith to implement any additional measures needed to ensure the Solar Array will not cause harm to the DESC system once operational.
3. Within 60 days of this Order, DESC must report back to the Commission indicating that the Solar Array is operational, or provide an explanation of the delay along with an expected timeline. DESC must continue to provide such an explanation to the Commission every 30 days until such time as the Solar Array is operational.

BY ORDER OF THE COMMISSION:

Comer H. Randall, Chairman

ATTEST

Florence P. Belser, Interim Vice Chair

(SEAL)

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Americas Tire Organization, LLC for)
an Order Compelling Dominion)
Energy South Carolina, Incorporated)
to Allow the Operation of a 1980 kW)
AC Solar Array as Authorized by)
State Law)

CERTIFICATE OF SERVICE

I certify that the following persons have been served with one (1) copy of the Proposed Order Granting BATO's Petition by electronic mail and/or U.S. First Class Mail at the addresses set forth below:

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August 5th, 2020

/s/ Emily E. Selden